

[Counsel Listed on Signature Page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

Case No. 3:23-md-03084-CRB

**JOINT STATUS REPORT FOR JULY 24,
2025 DISCOVERY STATUS
CONFERENCE**

This Document Relates to:

ALL ACTIONS

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

JOINT STATUS REPORT

In advance of the discovery status conference set for Thursday, July 24, 2025 at 10:30 am PDT, Plaintiffs and Defendants Uber Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC (collectively, “Defendants” or “Uber”) (jointly, “the Parties”), respectfully submit this Joint Status Report.

1 **I. Case Specific Witnesses**

2 **Joint Statement:** The Parties previously briefed the propriety of depositions of several Uber
 3 current or former employees. ECF 3344, 3412, 3510. Given the large amount of case-specific
 4 discovery remaining to complete, Plaintiffs have decided to withdraw those deposition notices and
 5 instead pursue the information sought through the remaining case-specific 30(b)(6) depositions. The
 6 Court can therefore deny the relief sought in the three pending letter briefs as moot.

7 **II. Plaintiffs B.L. and Dean Document Production**

8 **Plaintiffs' Position:** On July 10 (for B.L.), and July 16 (for Dean), Uber informed Plaintiffs
 9 that certain documents it produced in connection with these Plaintiffs' cases were inaccurate. But Uber
 10 has not produced corrected documents or provided a sufficient explanation of how the problem
 11 occurred or how widespread it is. All Uber has said is that there was a "copy/paste clerical error."
 12 Plaintiffs sent their portion of a PTO 8 brief on July 16. Under the PTO 8 schedule, the brief will be
 13 filed on July 22. Plaintiffs will request that the Court order (1) prompt production of all assertedly
 14 "corrected" documents in B.L.'s and Dean's cases; (2) provision of a declaration identifying and
 15 describing the source of any other errors in bellwether productions; (3) identification and deposition
 16 of the individuals involved in creating any incorrect or corrected documents; and (4) prompt
 17 production of the PSG data for the subject drivers and any other accounts associated with them.

18 **Defendants' Position:** In connection with ongoing case-specific 30(b)(6) depositions,
 19 Defendants have been working diligently to address issues related to certain documents produced
 20 regarding the B.L. and Dean cases. Defendants have been conferring with Plaintiffs regarding such
 21 issues and are making productions and re-productions of case-specific documents in advance of the
 22 completion of case-specific 30(b)(6) depositions. As to further information regarding Defendants'
 23 inadvertent production error and correction of same, as referenced in Section IV. below, Defendants
 24 have agreed to meet-and-confer with Plaintiffs regarding their new case-specific 30b6 deposition
 25 notice regarding document retention and production issues (which includes this topic) and Defendants
 26 submit that these issues be addressed in the context of that notice.

1 **III. Issues Arising from Case Specific 30(b)(6) Depositions**

2 **Plaintiffs' Position:** The Parties are discussing a large number of narrow but crucial issues in
 3 connection with ongoing case-specific 30(b)(6) depositions. For each upcoming deposition, Plaintiffs
 4 have requested that Uber produce certain documents a reasonable time before the deposition, that the
 5 Parties enter into certain stipulations, and that the witness be prepared to answer certain questions that
 6 were not answered at earlier depositions. Uber has indicated its general willingness to accommodate
 7 Plaintiffs' requests. In order to complete discovery expeditiously, however, it is important that
 8 documents be produced and material disputes be resolved sufficiently in advance of depositions.
 9 Otherwise, as has already happened repeatedly, deposition preparation will be chaotic, limited time on
 10 the record will be wasted trying to understand confusing documents that were produced at the last
 11 minute, and depositions will need to be rescheduled at the last minute or held open pending resolution
 12 of last-minute disputes.

13 Plaintiffs request that the Court order Uber to produce all documents and identify any scope
 14 disputes **no later than 9 am pacific time three (3) business days before each 30(b)(6) deposition**,
 15 that the Parties meet and confer by Zoom (if needed) that same day. If there are any disputed issues
 16 remaining, the Parties file a joint discovery letter brief no later than **two (2) business days before the**
 17 **deposition.**

18 **Defendants' Position:** While Defendants disagree with Plaintiffs' characterizations as to the
 19 reasons for certain rescheduled depositions, Defendants have agreed to meet and confer with Plaintiffs
 20 in advance of each deposition to attempt in good faith to resolve any outstanding issues. Indeed,
 21 multiple meet and confer calls have already occurred in advance of depositions scheduled in the next
 22 two weeks and the parties are in continuous communication regarding outstanding issues. Given the
 23 large number of issues raised (including entirely new requests and new levels of specificity that
 24 Plaintiffs now seek regarding broad topics that Defendants are working diligently to address),
 25 Defendants do not agree that it will be productive to bring issues to the Court two business days prior
 26 to a deposition. As a practical matter, given the schedule, the majority of new information sought will
 27 be provided between that time and the deposition. Defendants suggest instead that any issues that
 28

1 cannot be resolved in good faith by the parties be brought to the Court two calendar days prior to the
2 scheduled deposition.

3 **IV. Deposition Scheduling Updates**

4 **Joint Statement:** There are two other deposition updates other than the 30(b)(6) issues
5 discussed above. First, due to attorney illness, the Parties agreed to cancel the July 17 case-specific
6 30(b)(6) deposition of Mariana Esteves and rescheduled it for August 28. Second, Plaintiffs served a
7 case-specific 30(b)(6) notice concerning the document issues in the B.L. case (discussed above) and
8 similar issues in any other Wave 1 bellwethers. The Parties will meet and confer on that notice.

9 **V. LCHB128 Driver Issue**

10 **Plaintiffs' Position:** In a call between the driver at issue in LCHB128 and an Uber investigator,
11 the driver claimed to have a dashcam in a different vehicle that he used to drive for Uber. Uber has
12 not produced information regarding which car the driver was driving for which rides. In advance of
13 the LCHB128-specific portions of the July 15-16 30(b)(6) deposition concerning driver misconduct
14 and rider complaints, Plaintiffs asked Uber to produce: (1) documents showing which vehicle the
15 driver was driving for all rides in his history; (2) documents reflecting his dash cam registration with
16 Uber; and (3) documents reflecting dash cam use and footage. Uber did not respond.

17 **Defendants' Position:** Defendants have indicated to Plaintiffs that they are looking into these
18 requests and will continue to meet-and-confer in advance of Greg Brown's case-specific 30b6
19 deposition (which by agreement will continue on July 29 and 30). No impasse has been reached.

20 **VI. Scheduling of Mental Examinations**

21 **Joint Statement:** Defendants are forgoing IMEs of Plaintiffs Dean and B.L. The Parties have
22 been meeting and conferring and working towards a joint stipulation regarding the procedure and
23 timing for the remaining mental examinations and anticipate submitting that stipulation soon.

24 **VII. Plaintiffs' Privilege Assertions Regarding Preservation Measures**

25 **Defendants' Position:** Throughout the course of fact depositions in the Wave 1 Cases,
26 Plaintiffs' counsel have repeatedly instructed Plaintiffs not to answer questions that sought objectively
27 factual information regarding witnesses' efforts to preserve or collect documents—information that
28 cannot be protected by privilege. *See State Farm Fire & Casualty Co. v. Super. Ct.*, 54 Cal. App. 4th

625, 639 (Cal. Ct. App. 1997) (“[T]he attorney-client privilege only protects disclosure of communications between the attorney and the client; it does not protect disclosure of the underlying facts which may be referenced within a qualifying communication.”) (emphasis in original); *accord Zimmerman v. Super Ct.*, 220 Cal. App. 4th 389, 396 (Cal. Ct. App. 2013).

By way of example, during the June 25, 2025 deposition of LCHB128, counsel prevented the witness from answering simple yes or no questions regarding whether certain events took place. *See, e.g.*, LCHB128 Dep. at 70:7-71:13 (“Q. Did you provide your smartphone to anyone so that it could be searched for messages and other records? MS. LONDON: I’m going to object and instruct the witness not to answer that question... [Q.] Has your smartphone been searched for messages and records concerning the incident? MS. LONDON: I’m going to instruct you not to answer the question.”).¹ Counsel gave similar instructions to LCHB128’s husband in his recent deposition. Questions regarding this type of underlying factual information do not call for attorney communications, thoughts, or mental impressions, and are well within the ambit of fair and free discovery. *See State Farm Fire & Casualty*, 54 Cal. App. 4th at 639.

Likewise, during the deposition of Plaintiff B.L., counsel made similar, unfounded objections. *See* B.L. Dep. at 253:16-21 (“Q. Did you personally put documents on your phone to provide in this lawsuit? MS. LUTHER: I’m going to object to form. I’m also going to instruct the client not to answer about attorney-client privilege or attorney work product information and conversations in this case.”).² Plaintiffs’ continued attempts to prevent Uber from obtaining proper discovery are prejudicial and

¹ There are many additional questions that counsel improperly prevented the witness from answering, including: “Did you meet with any health care providers to prepare for your deposition?” *id.* at 23:13-23:6; “[Y]ou don’t recall being presented with a copy of this document before it was filed by your attorneys?” *id.* at 25:19-26:7; “[D]uring the break, did you discuss any of your answers with anybody?” *id.* at 26:19-24; “Have you personally gone through your smartphone to look for messages, records, or any information that relates to the incident?” *id.* at 71:15-72:15; “I’m not interested in any conversations with your lawyers. Did you and your husband ever discuss trying to bring legal claims against the driver?” *id.* at 236:5-20.

² Counsel also improperly instructed the witness not to answer several other questions, including, “When did you meet Summer in Manhattan?” L.B. Dep. at 15:25-16:10; “Did you fill out a form?” *id.* at 205:5-11; “[C]licking that ad on Instagram took you directly to the Wagstaff Law Firm, correct?” *id.* at 205:22-206:2; “What could Uber have done differently in your mind to keep what happened from happening?” *id.* at 208:1-8; “What is it that Uber could have done differently?” *id.* at 208:15-18; “What was your understanding of what documents you needed to turn over in this lawsuit?” *id.* at 254:17-255:3; “Did you personally provide e-mails and text messages related to this lawsuit to your attorneys?” *id.* at 256:10-259:18.

contrary to both the law and the Court’s directive. *See* ECF 2168 (quoting Cal. Evid. Code § 952) (A party “may not shield facts, as opposed to communications, from discovery. Any relevant fact may not be withheld merely because it was incorporated into a communication involving an attorney.”).

Indeed, these tactics have already prejudiced Uber as Uber has been left unable to verify how or whether Plaintiffs BL and LCHB128 have made a good faith effort to comply with their preservation obligations under PTO2. Uber has requested that Plaintiffs in both cases provide a verified accounting of what they did to preserve documents. If that accounting is not provided, Uber will seek to have these depositions re-opened to allow for appropriate questioning.

Plaintiffs’ Position: Uber sent a letter on these issues on July 16, 2025. As they are specific to individual bellwether cases, respective counsel for those Plaintiffs are handling the resolution of these issues. Counsel for Plaintiffs specifically identified in the correspondence met and conferred with Defendants on July 18, 2025. The Parties will submit any disputes pursuant to PTO 8.

VIII. Plaintiffs’ Evidence Preservation and Document Collection

Defendants’ Position: Plaintiff Jaylynn Dean has failed to preserve evidence that is clearly relevant to her claims. At Dean’s deposition, she testified that she was asked to tape with the Dr. Phil show by her counsel and that she took proactive steps to do so in June 2024, including attending a taping at the Dr. Phil Show. J. Dean Dep. at 245:7-250:10. Yet, to date, Plaintiff has failed to produce any documents regarding her participation in the Dr. Phil Show, nor even disclose her participation in the show in any written discovery responses. *See*, e.g., [Fourth] Am. Pl.’s Fact Sheet (verified on Feb. 24, 2025); Pl. Jaylynn Dean’s Resp. to Defs.’ Interrogs. (verified on Apr. 11, 2025). More generally, Plaintiff admitted to losing messages from her social media and “general storage” on her phone. *See* J. Dean Dep. at 280:10-281:18.

Similarly, four fact witnesses (all of whom were represented by Plaintiff Dean’s lawyers for purposes of their deposition) testified that they, too, failed to preserve relevant communications with Plaintiff Dean. Each of these friends testified that they communicated with Ms. Dean about the lawsuit via Snapchat – a service where messages disappear and are not preserved. Ms. Dean’s repeated use of Snapchat to communicate about the litigation is in clear violation of PTO2. Counsel has claimed that such messages are unlikely to be responsive, but because those messages disappear there is no way

1 for her to know that. Because of Plaintiff's failure to preserve relevant communications – both related
2 to the Dr. Phil show and these Snapchat communications – Uber is considering all available remedies
3 and wanted the Court to be aware of these issues as Uber may need to seek a second deposition of Ms.
4 Dean. Plaintiff LCHB128 has similarly failed to comply with her discovery obligations, conceding the
5 existence of certain records from her primary mental health provider (LCHB128 Dep. at 192:1-10)
6 and documents related to her use of rideshare applications (*id.* at 199:10-12), among other documents,
7 that have not been produced.

8 **Plaintiffs' Position:** Uber sent a letter on these issues on July 16, 2025. As they are specific
9 to individual bellwether cases, respective counsel for those Plaintiffs are handling the resolution of
10 these issues. Counsel for Plaintiffs specifically identified in the correspondence met and conferred
11 with Defendants on July 18, 2025. The Parties will submit any disputes pursuant to PTO 8.

12 **IX. Plaintiffs' Fact Sheets**

13 **Defendants' Position:** While some plaintiff firms have taken affirmative action to cure the
14 deficiencies in their plaintiffs' submissions, PFS deficiencies remain pervasive across the inventories
15 of most plaintiff firms in the litigation. In fact, within the last 30 days, Defendants have sent deficiency
16 notices to 750 plaintiffs who have not yet provided a response. Defendants have been and continue to
17 be willing to meet and confer with any deficient party that has questions or requires an extension in
18 order to remedy deficiencies with their client. In light of the deficiencies identified across a significant
19 portion of the docket on a near-daily basis, Defendants reserve the right to seek an additional case
20 management order or additional non-bellwether discovery to address Plaintiffs' failure to meet their
21 PTO 10 obligations.

22 **Plaintiffs' Position:** Plaintiffs' leadership is not aware of what "pervasive" issue exists.
23 Should Defendants identify any problem with particularity, Plaintiffs will meet and confer regarding
24 any proposed modifications to PTO 10.

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1 By: /s/ Roopal P. Luhana
2 ROOPAL P. LUHANA (*Pro Hac Vice*)
3 **CHAFFIN LUHANA LLP**
4 600 Third Avenue, Fl. 12
5 New York, NY 10016
6 Telephone: (888) 480-1123
7 Email: luhana@chaffinluhana.com

8 SARAH R. LONDON (SBN 267083)
9 **GIRARD SHARP LLP**
10 601 California St., Suite 1400
11 San Francisco, CA 94108
12 Telephone: (415) 981-4800
13 Email: slondon@girardsharp.com

14 RACHEL B. ABRAMS (SBN 209316)
15 **PEIFFER WOLF CARR KANE**
16 **CONWAY & WISE, LLP**
17 555 Montgomery Street, Suite 820
18 San Francisco, CA 94111
19 Telephone: (415) 426-5641
20 Email: rabrams@peifferwolf.com

21 *Co-Lead Counsel for Plaintiffs*

By: /s/ Laura Vartain Horn
LAURA VARTAIN HORN (SBN 258485)
KIRKLAND & ELLIS LLP
555 California Street,
San Francisco, CA 94104
Telephone: (415) 439-1400
laura.vartain@kirkland.com

Allison M. Brown (*Admitted Pro Hac Vice*)
KIRKLAND & ELLIS LLP
2005 Market Street, Suite 1000
Philadelphia, PA 19103
Telephone: (215) 268-5000
alli.brown@kirkland.com

Jessica Davidson (*Admitted Pro Hac Vice*)
Christopher D. Cox (*Admitted Pro Hac Vice*)
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022
Telephone: (212) 446-4800
jessica.davidson@kirkland.com
christopher.cox@kirkland.com

MICHAEL B. SHORTNACY (SBN: 277035)
SHOOK, HARDY & BACON, L.L.P.
2121 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
Telephone: (424) 285-8330
Facsimile: (424) 204-9093
mshortnacy@shb.com

PATRICK OOT (*Pro Hac Vice*)
SHOOK, HARDY & BACON, L.L.P.
1800 K Street NW, Suite 1000
Washington, DC 20006
Telephone: (202) 783-8400
Facsimile: (202) 783-4211
oot@shb.com

Attorneys for Defendants
UBER TECHNOLOGIES, INC.,
RASIER, LLC, and RASIER-CA, LLC

ATTESTATION

Pursuant to Civil Local Rule 5-1(h)(3), I hereby attest that all signatories listed, and on whose behalf the filing is submitted, concur in the filing's consent and have authorized the filing.

Dated: July 21, 2025

By: /s/ Laura Vartain Horn

CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

By: /s/ Laura Vartain Horn